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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,868	01/22/2004	Edward Eytchison	Sony-05300	8511

7590 10/07/2008
JONATHAN O OWENS
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EXAMINER

CLOUD, JOIYA M

ART UNIT	PAPER NUMBER
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2444

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10/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/763,868	Applicant(s) EYTCHEISON ET AL.	
	Examiner Joiya M. Cloud	Art Unit 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/01/2008, 8/25/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to communication filed 07/31/2008. Claims 1-27 are pending. Applicant's arguments filed 01/14/2008 have been fully considered but they are not persuasive.

Reopening of Prosecution

In view of the Advisory Action mailed on 07/31/2008, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, applicant must file a reply under 37 CFR 1.113

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by **Carhart** (US Publication No. 2005/0108754)

As per **claim 1**, Armstrong teaches a method comprising: identifying a preference (**user preference of channels, paragraph [0058]**); selecting a content item based on the preference

Art Unit: 2144

(paragraph [0058]); storing an initial portion of the content item in a temporary storage cache **(Figure 6a, cache content);** receiving a request for the content item **(Figure 6a and paragraph [0061]);** streaming the initial portion of the content item from the temporary storage cache to a stream synchronizer in response to the request **(paragraph [0061]);** producing a resultant stream using the initial portion of the content item **(paragraph [0061] and [0081] ;** and seamlessly transitioning the resultant stream from the initial portion of the content item to an entire segment of the content item **(Figure 2, item 210 and paragraph [0081], synchronizing).**

As per claim 2, Carhart teaches a method wherein the preference is associated with a user **(paragraph [0043] and [0078], a playlist that user put together for audio use).**

As per claim 3, Carhart teaches a method wherein the preference includes a playlist **(paragraph [0043]).**

As per claim 4, Carhart teaches a method wherein the resultant stream mirrors the entire segment of the content **(paragraph [0087]).**

As per claim 5 Carhart teaches a method further comprising identifying a user associated with the preference **(paragraph [0078]).**

As per claim 6, Carhart teaches a method wherein the content includes one of a document, an image, audio data, and video data **(paragraph [0043], audio data).**

As per claim 7, Carhart teaches a method further comprising transmitting the entire segment of the content to a stream buffer in response to the request **(paragraph [0081]).**

As per claim 8, Carhart teaches a method wherein the transmitting the entire segment of the content occurs simultaneously with streaming the initial portion (**paragraph [0081]**).

As per claim 9, Carhart teaches a method wherein the seamlessly transitioning occurs in real-time (**paragraph [0081]**).

As per claim 10, Carhart teaches a method further comprising presenting the resultant stream beginning with the initial portion and subsequently followed by a portion of the entire segment (**paragraph [0087]**).

As per claim 11, claim 11 recites substantially the same limitations as claim 1. Therefore, the rejection for claim 1 applies equally as well to claim 11.

As per claim 12, claim 12 is substantially the same as claim 1 and thus rejected using similar rationale. Furthermore, regarding simultaneously loading an entire segment of the selected content item to the stream synchronizer while streaming the initial portion (**paragraph [0087]**)

As per claims 13-17, the rejection for claims 1, 6, and 9 applies fully.

As per claim 18, Carhart teaches a method further comprising displaying the resultant stream (**paragraph [0023], Figure 2**).

As per claim 19, claim 19 is substantially the same as claim 1, but in system form rather than method form. Therefore, the rejection for claim 1 applies equally as well to claim 19.

As per claim 20, claim 20 is substantially the same as claim 1, but in system rather than method form. Therefore, the rejection for claim 1 applies equally to claim 20.

As per claim 21, Carhart teaches a system wherein the client device is configured to store the initial portion of the content prior to a request for the content (**paragraph [0024]**).

As per claim 22, Carhart teaches a system wherein the client device is configured to receive the entire segment subsequent to a request for the content (**paragraph [0024]**).

As per claim 23, Carhart teaches system wherein the client device further comprises a preference data module configured for storing information relating to the content (**paragraph [0061]**).

As per claims 24-26, the rejection for claims 1 and 6-7 applies fully.

As per claim 27, Carhart teaches similar limitations as claim 1 and thus is rejected using similar rationale. Furthermore, regarding prefetching an initial portion of the content item (**paragraph [0024]**).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

Art Unit: 2144

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMC

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144

October 1, 2008